

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LYNN MCINTYRE,

Plaintiff,

v.

RICHARD WILSON; LAKE COUNTY  
SHERIFF'S DEPARTMENT; CHUCK  
WILSON; FRANCES WILSON; and DOES  
1-5,

Defendants.

No. C 12-3023 CW

ORDER GRANTING  
PLAINTIFF'S MOTION  
TO EXTEND TIME  
(Docket No. 32),  
VACATING THE  
SEPTEMBER 24, 2012  
ORDER AND  
EXTENDING THE  
DEADLINES FOR  
PLAINTIFF TO  
COMPLY WITH THE  
COURT'S SEPTEMBER  
11, 2012 ORDER

Pro se Plaintiff Lynn McIntyre moves for additional time in which to respond to the motions to dismiss filed by Moving Defendants Lake County Sheriff's Department and Richard and Frances Wilson. Docket No. 32. Having considered the papers filed by Plaintiff, the Court GRANTS his motion, VACATES the September 24, 2012 Order dismissing his claims against the Moving Defendants and EXTENDS the deadlines for him to comply with the Court's September 11, 2012 Order.

BACKGROUND

On August 14 and 15, 2012, Moving Defendants filed two motions to dismiss Plaintiff's claims against them. Docket Nos. 21, 22.

On September 11, 2012, the Court noted that Plaintiff had not filed oppositions to the motions to dismiss by September 4, 2012, the deadline set forth in Civil Local Rule 7-3(a). Docket No. 28. The Court allowed Plaintiff until September 18, 2012 to file oppositions and warned him that failure to file oppositions by

1 that date would result in the dismissal of his claims against the  
2 Moving Defendants for failure to prosecute. At that time, the  
3 Court also directed Plaintiff to notify the Court whether he  
4 intended to identify Chuck Wilson as a separate Defendant or as an  
5 alternative name for either Richard or Frances Wilson, to provide  
6 an alternative address for service upon Chuck Wilson and warned  
7 Plaintiff that failure to do so would result in dismissal of his  
8 claims against this Defendant for failure to prosecute. Finally,  
9 the Court ordered Plaintiff to show cause why his claims against  
10 Chuck Wilson should not be dismissed for failure to state a claim  
11 upon which relief can be granted, pursuant to the statute  
12 governing in forma pauperis cases, 28 U.S.C. § 1915(e)(2)(B). The  
13 Clerk served Plaintiff with a copy of the September 11, 2012 Order  
14 by mailing it to him at the address he provided at the time he  
15 initiated this action, Box 1175, Lower Lake, CA 95457. Docket  
16 Nos. 1, 29.

17 On September 24, 2012, having not received oppositions by  
18 Plaintiff, the Court dismissed his claims against the Moving  
19 Defendants for failure to prosecute. Docket No. 30. The Clerk  
20 served Plaintiff with a copy of this Order at the same address.  
21 Docket No. 30-1.

22 On September 26, 2012, the Court received a document entitled  
23 "Opposition to Motion to Dismiss" from Plaintiff. Docket No. 31.  
24 Although the accompanying certificate of service attested that the  
25 document had been served by mail on September 20, 2012,  
26 Plaintiff's signature on the document is dated September 23, 2012  
27 and the envelope in which he mailed it shows that the postage was  
28 paid on September 25, 2012. Docket No. 31-1. It is not clear

1 whether Plaintiff intended this document as a response to one or  
2 both of the motions to dismiss.

3 On October 10, 2012, the Court received a motion for  
4 extension of time to file an opposition from Plaintiff. Docket  
5 No. 32. Plaintiff's address was listed as Box 1175, Lower Lake,  
6 CA 95457 on his motion and accompanying envelope. In this  
7 document, Plaintiff seeks an extension of thirty days beyond  
8 September 18, 2012 to file his oppositions to the motions to  
9 dismiss. Plaintiff represents that he "did not receive any Court  
10 order from this court to complete opposition's legal pleadings in  
11 this case," and that, if he had received such an order, he would  
12 have requested an extension of time to prepare his responses.

#### 13 DISCUSSION

14 Because Plaintiff is proceeding pro se and appears to  
15 represent that he did not receive the September 11, 2012 Order,  
16 the Court GRANTS his request for an extension of time to respond  
17 to the motions to dismiss. The Court notes that, regardless of  
18 whether he received the September 11, 2012 Order, Plaintiff did  
19 not meet the deadline set forth in the Civil Local Rules and did  
20 not file a motion for an extension of time before that deadline.  
21 Plaintiff is reminded of his obligation to comply with the  
22 procedures set forth in Civil Local Rules and the Federal Rules of  
23 Civil Procedure, which are available on the Court's website at  
24 <http://www.cand.uscourts.gov/rules>. Plaintiff must file any  
25 further motions to extend time in this case prior to the deadline  
26 that he seeks to extend and must comply with Civil Local Rules 6-1  
27 through 6-3.  
28

1 The Court also extends the other deadlines set forth in the  
2 September 11, 2012 Order, as set forth below.

3 CONCLUSION

4 For the reasons set forth above, the Court GRANTS Plaintiff's  
5 motion for an extension of time (Docket No. 32) and directs the  
6 Clerk to serve Plaintiff with a second copy of the September 11,  
7 2012 Order. The Court further ORDERS as follows:

8 1. The Court's September 24, 2012 Order dismissing  
9 Plaintiff's claims against the Moving Defendants is VACATED  
10 (Docket No. 30).

11 2. Plaintiff must file a single further opposition to both  
12 motions to dismiss, of twenty pages or less, by Thursday, November  
13 1, 2012. Plaintiff's failure to do so will result in the  
14 dismissal of his claims against the Moving Defendants for failure  
15 to prosecute.

16 3. As stated in the September 11, 2012 Order, Plaintiff  
17 must notify the Court whether he intended to identify Chuck Wilson  
18 as a separate Defendant or as an alternative name for either  
19 Richard or Frances Wilson, and if Plaintiff intended to name Chuck  
20 Wilson as a separate Defendant, Plaintiff must provide an  
21 alternative address for service upon this Defendant. The deadline  
22 for Plaintiff to provide this information is extended to Thursday,  
23 November 1, 2012. Failure to do so will result in dismissal of  
24 Plaintiff's claims against this Defendant for failure to  
25 prosecute.

26 4. As stated in the September 11, 2012 Order, Plaintiff  
27 must show cause why his claims against Chuck Wilson should not be  
28 dismissed for failure to state a claim upon which relief may be

1 granted against him, because Plaintiff has not included in his  
2 complaint any allegations directed toward this Defendant. The  
3 deadline for Plaintiff to do so is extended to Thursday, November  
4 1, 2012.

5 5. Moving Defendants may file replies in support of their  
6 motions to dismiss by Thursday, November 8, 2012.

7 IT IS SO ORDERED.

8  
9 Dated: 10/16/2012

  
CLAUDIA WILKEN  
United States District Judge